

A RESOLUTION

01-*R*-0411

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$4,377.35 IN SETTLEMENT OF THE CLAIM
OF PAUL E. LAYTON, JR. AGAINST THE CITY OF
ATLANTA**

WHEREAS, Paul E. Layton, Jr. has filed a claim against the City of Atlanta seeking vehicular damages caused when he drove into a collapsed storm sewer; and

WHEREAS, the Sewer Operations Division of the Department of Public Works had placed a metal plate over a collapsed storm sewer at 1955 Campbellton Road, SW, but had failed to properly secure the plate, the plate slipped off of the collapsed storm sewer and Mr. Layton drove his vehicle into same; and

WHEREAS, the construction and maintenance of public roads is a ministerial function and therefore this claim is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of **\$4,377.35** and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of **Paul E. Layton, Jr.** be settled for the sum of **\$4,377.35**.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that **\$4,377.35** be paid by the City of Atlanta in satisfaction of any and all claims **Paul E. Layton, Jr.** may have stemming from damages sustained to his vehicle on or about February 6, 2001 at 1955 Campbellton Road, SW.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0134

Date: March 1, 2001

Claimant /Victim PAUL E. LAYTON, JR.

BY: (Atty)(Ins. Co.) _____

Address: 1205 Nova Terrace, March 1, 2001 March 1, 2001 Titusville, Florida 32796

Subrogation: Claim for Property damage \$ 4,377.35 Bodily Injury \$ _____

Date of Notice: 02/26/01 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) _____

Date of Occurrence 02/06/01 Place: 1955 Campbellton Road, SW

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant damaged his vehicle when he drove into a collapsed storm sewer in the roadway. The City had received notice of the dangerous condition and placed a metal plate over the hole, however, the plate was not secured to the roadway and slipped off of the hole causing a dangerous condition.

INVESTIGATION:

Statements: City employee X Claimant X Others _____ Written _____ Oral X

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report _____ Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental _____ Ministerial X

Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable X

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

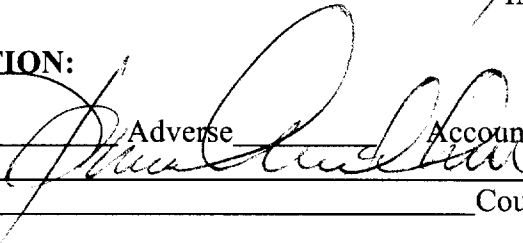
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 4,377.35 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____

Claims Manager:  Concur/date 03-02-01

Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 2-20-2001

ENTERED - 2-27-01 - SB
01L0134 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ Pending property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 2/6/2001 2. Time of Incident: Approx. 11:00-12:00 PM 3. Police called: ✓
(month/day/year) Yes No

4. Location of incident (including street address): 1955 Campbellton Rd.

5. Name of your insurance company: _____ Policy No. _____

6. State what and how incident occurred: While traveling West on Campbellton Rd, ran over uncovered part of construction hole. The hole was partially uncovered & no barricade was present to alert traffic as to its hazard. The plate was sticking up off of the road about 10-12 inches, which did substantial damage to the mechanics of my vehicle. Called Police who did an accident report and he immediately called the City of Atl. to come to the scene and put up barricades around the hole so no one else would damage their vehicle.

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: Ford 1995 HK599I Paul E. Layton, Jr.
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: Dandra Pinzen Layton 1205 Nova Terrace, Titusville, FL 321-385-
(Name) (Address) (Telephone Number) 3667

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Paul E. Layton, Jr.
Signature of Claimant

Paul E. Layton Jr.
(Print Claimant's Name)

1205 Nova Terrace
(Address)

Titusville, FL 32796
(City, State and Zip Code)

321-385-3667
(Work Number) (Home Number)